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BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Reinstatement
By:

OAH No. 2011020263

ESTHER NKIRUKA EZEBUNWA
1401 East 12th Street, #111
Austin, TX 78702

Vocational Nurse License No.
VN 180765

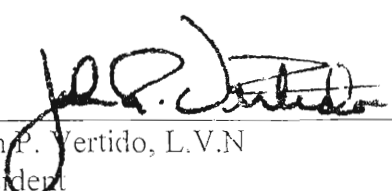
Petitioner.

DECISION DENYING PETITION FOR RECONSIDERATION

The Board of Vocational Nursing and Psychiatric Technicians hereby denies your Petition for Reconsideration of its May 17, 2011 Decision in the above-entitled matter.

This Decision shall become effective on May 27, 2011.

IT IS SO ORDERED this 26th day of May, 2011.



John P. Vertido, L.V.N.
President

BEFORE THE
BOARD OF VOCATIONAL NURSING
AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Reinstatement
By:

OAH No.: 2011020263

ESTHER NKIRUKA EZEBUNWA
1401 East 12th Street, #111
Austin, TX 78702


Vocational Nurse License No.
VN 180765

Petitioner.

ORDER DELAYING DECISION

Pursuant to Section 11521(a) of the Government Code, the Board of Vocational Nursing and Psychiatric Technicians (Board) hereby issues this Order Delaying Decision in the above-stated case until May 27, 2011. The purpose of the delay is to permit the Board to review your Petition for Reconsideration.

IT IS SO ORDERED this 12th day of May, 2011.



John F. Vertido, L.V.N.
President

**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for Reinstatement By:

ESTHER NKIRUKA EZEBUNWA,

Petitioner.

OAH No. 2011020263

DECISION

This matter was heard by a quorum of the Board of Vocational Nursing and Psychiatric Technicians (Board) on February 24, 2011, in Los Angeles. Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, presided. The record was closed and the matter was submitted for decision, following which the Board met in an executive session and decided the matter after the hearing.

Esther Nkiruka Ezeibunwa (Petitioner) appeared and represented herself.

Langston Edwards, Deputy Attorney General, represented the Attorney General of the State of California pursuant to Business and Professions Code section 2878.7.

FACTUAL FINDINGS

1. On May 8, 1997, the Board issued Vocational Nurse License No. VN 180765 to Petitioner.

2A. In a Default Decision and Order (Board Case No. VN-2001-1918), the Board revoked Petitioner's license, effective April 18, 2007.

2B. The discipline was based on Petitioner's following acts of unprofessional conduct and dishonesty. She owned and operated a nursing agency. She sent numerous uncertified temporary employees to work in skilled nursing facilities that had requested the services of Certified Nurse Assistants (CNAs). Many of the uncertified temporary employees were also unskilled. Petitioner billed the nursing facilities for the services of certified temporary CNAs. Those facilities paid Petitioner \$50,000. As a result of the above, Petitioner was convicted of one count of conspiracy to commit false representation as a CNA and two counts of grand theft.

3. The petition for reinstatement was filed with the Board on November 1, 2010; it is timely and meets all jurisdictional requirements.

4. In her petition, Petitioner denied having been convicted of any crime since the revocation of her license. However, on August 9, 2007, she was convicted, on her plea of nolo contendere, of driving on an expired license in violation of Vehicle Code section 12500, subdivision (a), and of having no proof of insurance in violation of Vehicle Code section 16028, subdivision (a), both infractions. Petitioner's explanation for her failure to disclose this conviction was unconvincing.

5. Since the revocation of her license, Petitioner's crimes were reduced to misdemeanors pursuant to Penal Code section 17, and thereafter her conviction was expunged pursuant to Penal Code section 1203.4.

6. In support of her petition, Petitioner submitted a variety of positive character reference letters, as well as proof of completion of some continuing education on office administration. However, the Board views Petitioner's overall continuing education coursework to be unsatisfactory, and is concerned that Petitioner has not taken an ethics course, given her past misconduct and conviction.

7. The Board is concerned that Petitioner fails to accept full responsibility for her past misconduct, and that she tends to minimize her crimes. This shows that Petitioner has a lack of comprehension of her crimes. During the hearing, Petitioner also demonstrated that she has a less than complete understanding of elder abuse. She did not appear remorseful or contrite.

LEGAL CONCLUSIONS

1. *Burden of Proof.* The burden in this petition for reinstatement of a revoked license rests with Petitioner. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) The standard of proof is clear and convincing evidence to a reasonable certainty. (*Hippard v. State Bar* (1989) 49 Cal.3d 1084.)

2. *Standard of Review.* Business and Professions Code section 2878.7 provides the Board with authority to reinstate a revoked license for reasons the Board deems sufficient. In doing so, the Board may impose reasonable conditions. (Bus. & Prof Code, § 2878.7, subd. (d).)


3. *Disposition.* In this case, Petitioner failed to meet her burden of establishing by clear and convincing evidence that cause exists to reinstate her license pursuant to Business and Professions Code section 2878.7. Petitioner's continuing education coursework is lacking. Overall, Petitioner presented little evidence of rehabilitation. She failed to provide a satisfactory explanation why she failed to disclose a post-revocation conviction. The Board is also concerned with Petitioner's failure to accept responsibility for her crimes and her apparent lack of awareness of the full scope of her misconduct. (Factual Findings 1-7.)

ORDER

The petition for reinstatement of Esther Nkiruka Ezebunwa is DENIED.

This Decision shall be effective May 17, 2011.

Dated: May 2, 2011



John Vertido, L.V.N.,
President, California Board of Vocational
Nursing and Psychiatric Technicians